

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

101 PARK AVENUE

NEW YORK, NEW YORK 10178

FACSIMILE

(212) 808-7897

www.kelleydrye.com

NEIL MERKL

DIRECT LINE: (212) 808-7811

EMAIL: nmerkl@kelleydrye.com

WASHINGTON, DC
TYSONS CORNER, VA

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES

MUMBAI, INDIA

(212) 808-7800

April 3, 2012

VIA ECF

Magistrate Judge Lois Bloom
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Shirley Wrubel, as Trustee of the Sara Hollander Irrevocable Life
Insurance Trust v. John Hancock Life Insurance Company,*
Docket No. 11-cv-01873 (WFK)(LB)

Dear Magistrate Judge Bloom:

This firm represents John Hancock, and we write in response to Plaintiff's letter of today's date addressing emails submitted in connection with request for leave to disqualify Kelley Drye.

We have requested that Plaintiff furnish us with a privilege log for the documents submitted, but have not yet received it. (It is promised tomorrow.) Accordingly, we are not in a position and have not been in a position to address Plaintiff's privilege claims. Based on yesterday's deposition of Mr. Jacobowitz, it is clear that Mr. Berman was never, in fact, retained by him for anything. No retainer agreement was signed. No fee was paid. And, in February 2011 Mr. Berman told Mr. Jacobowitz he had joined this firm and would not be able to help him, so Mr. Jacobowitz has known about the supposed conflict for over a year. In addition, the five or six redacted emails we have received indicate other persons were copied on them. These people included Mr. Joel Wertzberger, whose involvement in this remain unclear, and Mr. Joel Goldberger, the broker who sold the policies. There is no claim asserted against or by Mr. Goldberger or Mr. Wertzberger in this case. Mr. Jacobowitz testified he had no business or other relationship with either Mr. Goldberger or Mr. Wertzberger, and that he had no interest at all in either of the policies or their proceeds and no shared interest with Mr. Goldberger or Mr. Wertzberger. As a result, there can be no privilege on any of the emails that Mr. Goldberger or Mr. Wertzberger were copied on, and we advised Plaintiff that all such emails should have been produced.

KELLEY DRYE & WARREN LLP

The Magistrate Judge Lois Bloom
April 3, 2012
Page Two

Accordingly, we request leave to move to compel their production after we have the opportunity to review the privilege log, and complete the necessary deposition discovery to challenge the privileged claims.

Finally, neither Mr. Flanagan nor I who are the only Kelley Drye attorneys actively participating in discovery in this case have received any emails or information of any kind from Mr. Berman. All communications as they relate to this conflict claim have been handled by Firm counsel, Steven P. Caley.

Respectfully submitted,

/s/ Neil Merkl

Neil Merkl

cc: Ira S. Lipsius, Esq. (via ECF)
David BenHaim, Esq. (via ECF)